IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 23724 of 2006(Y)

CMA.7/2006 of DISTRICT COURT, THODUPUZHA
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PETITIONER:

DEVASIA, S/O.DEVASIA,
RESIDING AT KARIKUTTIYIL HOUSE,
P.O.NEDUMKANDAM, UDUMBANCHOLA.

BY ADV. SRI.GEORGE THOMAS (MEVADA)

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
DISTRICT COLLECTOR, IDUKKI.

2. THE DISTRICT REGISTRAR, IDUKKI.

3. THE DEPUTY TAHSILDAR (RR),
P.O.NEDUNKANDAM, IDUKKI.

4. THE VILLAGE OFFICER,
KALKOONTHAL VILLAGE OFFICE,
KALKOONTHAL P.O., UDUMBANCHOLA, IDUKKI.

BY GOVERNMENT PLEADER SMT. R. BINDU.
SRI.JOHN VARGHESE, ASSISTANT SG

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT. P1 **TRUE COPY OF NOTICE ISSUED BY THE 3RD RESPONDENT DTD.25.7.05.**

EXT.P2 TRUE COPY OF ORDER ISSUED BY THE 2ND RESPONDENT DTD. 16.10.02.

EXT.P3 TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE DISTRICT COURT, THODUPUZHA, DTD.7.4.06

EXT.P4 TRUE COPY OF OBJECTION FILED BY THE RESPONDENTS DTD.20.3.06.

EXT.P5 TRUE COPY THE ORDER IN I.A.105/06 DTD. 7.4.06.

EXT.P6 TRUE COPY OF ORDER IN CAM 7/06 DTD.7.4.06.

[True copy]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 23724 OF 2006

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Dated this the 18th day of June, 2007.

J U D G M E N T

This writ petition is filed challenging the order of the District Judge, Thodupuzha in I.A.105/06 and CMA 7/06. The writ petitioner was directed to pay additional stamp duty and registration charges as per the order dated 16.10.92. It is the case of the petitioner that no order was communicated and it was only in July, 2005 he came to know about the order and thereafter he applied and obtained the copy in January, 2006 and filed the CMA. The learned District Judge found that there are no sufficient reasons to condone the delay and therefore dismissed the delay condonation application and as a consequence the CMA as well. There is nothing on record to show that the order was served or communicated to the writ petitioner immediately on the pronouncement of the order dated 16.10.02. Even if the contention of the petitioner is taken into consideration that he came to know about it only in July, 2005, even if it is so,

the delay will be only about six months. The person is directed by the Government to pay additional stamp duty and penalty. Therefore, necessarily he will be the interested person. There are no materials to show that he was guilty of grave mis-conduct or gross negligence and it is a well settled principle that as far as possible opportunity should be given to hear the matter on merits. Therefore, in the interest of justice, as it is proved that there is no grave negligence or gross mis-conduct I am inclined to condone the delay. Therefore, the writ petition is allowed, delay is condoned and the District Judge, Thodupuzha is directed to restore the CMA to file and dispose of the matter in accordance with law within a time frame of three months.

M.N. KRISHNAN, JUDGE.

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